

REMARKS

Applicants hereby submit this Amendment B, responsive to the Final Office Action—
Date Mailed: December 03, 2003, Paper No. 6, for which a response is due March 03, 2004 by a shortened statutory period for reply set to expire three months from the mailing date of the Office Action.

Claims 21-52, 54-67, 82-86 and 89-91 are currently pending in the application. Claims 21-52, 54-67, 82-86 and 89-91 are rejected.

By this Amendment, the Specification has been amended. A Substitute, New Declaration for Utility Patent Application (37 CFR §1.63) is herewith filed. Applicants wish to thank Supervisory Patent Examiner Hassan Kizou for his telephone conference with Applicants' Attorney on February 12, 2004.

In light of this New Declaration, Applicants respectfully submit that Examiner Levitan's rejections of Claims 21-52, 54-67, 82-86 and 89-91 under 35 U.S.C. §102(e) as being anticipated by Ofek (US 6,272,131) are improper and request Examiner to withdraw the Final Office Action. The previously submitted Amendment A, filed August 12, 2003, claimed priority for the present application from Ofek (US 6,272,131) and declared the present application to be a continuation-in-part of Ofek (US 6,272,131).

Both the present application and Ofek (US 6,272,131) have Yoram Ofek as a common inventor and both are assigned to a common owner: Synchrodyne Networks, Inc. Yoram Ofek is a sole or joint inventor of all claims in the currently pending application. The subject matter of the various claims was commonly owned at the time of filing Applicants' present invention, as acknowledged by Applicants' Declaration which is filed concurrently with this Amendment B. An Assignment assigning all patent rights to Synchrodyne Networks, Inc. (duly executed by both of the joint inventors of the present Application) was filed by Applicants' Attorney of record on March 28, 2000.

35 U.S.C. §120 provides that a continuation application must be filed by "an inventor or inventors named in the previously filed application." The 1984 amendment to 35 U.S.C. §120 directly allows continuation, divisional, and continuation-in-part applications to be filed even though there is not complete identity of inventorship between the parent and subsequent applications.

37 C.F.R. §1.78(a)(1) provides that "In order for an application to claim the benefit of a prior-filed copending nonprovisional application... each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112." The impact of this rule can be avoided by naming inventor A in the second application and stating some claim supported by the prior application as to which A is a joint or sole inventor. Disclosure support in the Specification of Ofek (US 6,272,131) exists for all claims of the currently pending application.

37 C.F.R. §1.78(a)(2) provides that "Except for a continued prosecution application... any nonprovisional application... claiming the benefit of one or more prior-filed application... must contain or be amended to contain a reference to each such prior-filed application identifying it by application number (consisting of the series code and serial number)... and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see §1.14)." Applicants have already complied with 37 C.F.R. §1.78(a)(2) in Amendment A (filed: August 12, 2003) of the currently pending application.

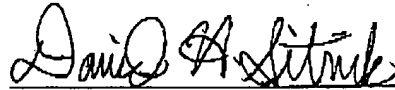
This response is accompanied by the appropriate fee transmittal authorizing the Commissioner to charge any additional fees and credit any overpayments during the pendency of this application to Sitrick & Sitrick's Deposit Account Number: 501166. An additional fee for the Substitute, New Declaration (attached herewith) is due and paid via said fee transmittal form.

It is thus respectfully submitted that by this amendment all basis of objection and rejection have been overcome and traversed, and that the application, including the specification description, claims and drawings are in proper form for allowance.

PATENT APPLICATION
Serial Number: 09/535,831
Attorney Docket Number: SYN 1756

The Examiner is invited to communicate directly with the undersigned via phone as would be of assistance to expediting prosecution of this matter.

Respectfully submitted,



David H. Sitrick
Attorney for Applicants
Registration No. 29,349

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SITRICK & SITRICK
8340 N. Lincoln Ave., Suite 201
Skokie, IL 60077
Telephone Number: (847) 677-4411
Facsimile Number: (847) 677-4656